



VICTORIAN BUILDING INDUSTRY DISPUTES PANEL

CHAIRMAN: SIMON WILLIAMS

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CFMEU

RE: ALLEGED BREACH OF CODE OF PRACTICE

16 December, 2009

069-2009 and 070-2009

### DECISION

Following initial submissions, it was established that the matters in contention were similar in nature and, on that basis, the Chairman determined that the matters be dealt with jointly.

The Union representative submitted that on both of the above State Government Building Education Revolution (BER) projects there were clear examples involving alleged sub-contractors departing from obligations and responsibilities as detailed in the Code of Practice for the Building and Construction Industry - Victoria.

It was alleged that arrangements included the practice of so-called "all in" payments and other forms of non-compliance which were not in the spirit and intent of the State Code of Practice.

The Union representative stated that he was seeking a recommendation from the Panel with regard to addressing these major issues of concern.

In response M<sup>B</sup>A<sup>V</sup> (on behalf of its members) did not deny the possibility of the existence of sham contracting practices in the industry. However, its representative submitted that the concerns raised should be properly dealt with by way of referral to relevant State and National Authorities for the purpose of investigation. Such an investigation would necessarily involve an examination of any "overlap" which may exist between the National and State Building Industry Codes of Practice.

The M<sup>B</sup>A<sup>V</sup> submitted further that this investigation should be undertaken prior to any recommendation being made by the Panel.

Having considered the serious nature of the allegations raised, including the possibility that the alleged practices are or are becoming widespread in the industry, the Panel is firmly of the view and strongly recommends that Industrial Relations Victoria immediately investigate these allegations with a view to establishing their legitimacy or otherwise.

In doing so, Industrial Relations Victoria should be particularly mindful of the State Building Industry Code of Practice and the relevant provisions of the Victorian Government's BER Bilateral Agreement with the Commonwealth Government.

As a consequence, this recommendation will be forwarded to the Executive Director, Industrial Relations Victoria as prescribed by Clause 2.8 Compliance of the Code of Practice for the Building & Construction Industry - Victoria - Industrial Relations Principles, for urgent attention.



**Simon Williams**  
**Chairman**

**Peter Knight**  
**Panel Member**

**Bill Davis**  
**Panel Member**

***Dated this 16 day of December 2009***